

Attorney Docket No. VRBA.P007.B

REMARKS

The Examiner is thanked for the Office Action of June 2, 2005. In that Office Action, the Examiner rejected claims 12, 13, and 17 as anticipated under 102(b) by Henson (5,134,393). Claims 12-23 remain pending in the application, claims 1-11 have been cancelled and will be pursued in a continuing application. Claim 19 has been amended to include the feature (as discussed below) of non-negative acceleration.

For the reasons stated below, the Applicants assert that the above rejected claims 12, 13 and 17 are not anticipated by Henson. Claims 19-20 and 22-23 (Asano et al. 3,835,950), 14-17 (Andreas 6,094,616), 18 (with Lees 6,483,443), 21, (with Lichtenberg 6,459,983) were rejected under §103, as obvious when "combined with Henson" under 103(a). We assert that this rejection is erroneous because claims 12, 13 and 17 are not anticipated by Henson, and Henson teaches away from the other claims. Further, consider the remarks below.

§112, ¶12 Rejection

Claim 13 has been amended to complete the phrase that the Examiner objected to, as "wherein said non-negative acceleration governor is only activated by said activation device." The applicant asserts that claim 13 now satisfies the requirements of §112.

102(b) Rejection

The Examiner's rejection of claims 12, 13 and 17 as anticipated by Henson (5,134,393) is not appropriate under 35 USC §102(b) as Henson does not in any way teach a **non-negative** acceleration governor as stated by the Examiner in the Office Action. Henson teaches away from the concept of non-negative acceleration.

An illustration that Henson does not teach a non-negative acceleration governor, is clearly shown in the 5,134,393 specification, *inter alia*, at col. 8, lines 6-10 ("which increase **or decrease** the speed by setting..."), col. 8, lines 45-51 ("indicating to the driver that he should **slow down**"), col. 9, lines 34-51 ("which circulate within the target to provide speed up or **slow down** signals to the drivers...").

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The Applicant respectfully asserts that the claims 12, 13 and 17 are not anticipated by Henson under 102(b) and therefore cannot be "combined" with the above-referenced cited art for purposes of rejecting the claims as obvious. The Applicant has examined the passages of Henson cited in the Office Action col. 6-7, lines 13-2, col. 8, lines 1-17, col. 8-9, lines 61-51, and cannot find a single reference or suggestion for non-negative acceleration. Furthermore, the Applicant will address the 103(a) issues in order to expedite prosecution of the Application, and to address the rejection of claim 19, because the presently claimed invention cannot be obvious when considering Henson, because Henson clearly requires a more complex manufacturing and safety process in the implementation of his disclosed system.

The Applicant asserts that Henson has not considered the innovations included in the non-negative acceleration feature of the present invention, which provides for an improvement which considers the highly important factors of simplified manufacturing process, safety and marketplace practicality (such as the hypothesis that drivers would generally not tolerate their cars slowing down). The non-negative acceleration feature of the present claims allows the traffic flow systems to be implemented without the need for a fail safe mechanism which does not ever, under any circumstances, to slow the vehicle down or to indicate to the driver to slow down. Non-negative acceleration governors are only limited to a vehicle's "speeding up" (and in the case where acceleration is zero, to the vehicle's unchanging velocity). These features are designed for implementation in specific zones in which traffic dissipation or spacing causes significant local or regional traffic problems, and thus, may be implemented in a much more "targeted" and less expensive manner than that taught by Henson. Thus, it is asserted that Henson clearly *teaches away* from pending claims 12-23 and does not anticipate the pending claims or render them obvious in any way alone or in combination with the cited art.

103(a) rejection(s)

Because Henson does not anticipate the presently claimed invention and teaches away from the claims, claims 14-16 and 18-23 are not obvious in view of the cited references.


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The Applicant specifically reserves the right to address the obviousness rejection of claims 1-11 during prosecution of a continuation application, should the Examiner find another reference to replace the Henson teachings. In addition, because Henson can no longer be used to reject claims 12, 13 and 17, Henson cannot be combined with the other cited references to reject the claims, however the Applicant reserves the right to argue any §103 rejection of claims 14-16 and 18-23, if the Examiner finds that the cited references render any of the claims obvious without using the Henson reference.

CONCLUSION

The Examiner is thanked for the thorough Office Action of June 2, 2005, however the Applicant submits that the rejection is improper and that the pending claims are in condition for allowance over the cited art, and a Notice of Allowance is earnestly solicited. If the Examiner believes that a telephonic or in-person conference would help resolve any remaining issues and expedite the prosecution of the Application, he is invited to contact the Applicant's representatives at the contacts listed below.

Date: 22 July 2005

Respectfully submitted,
DORT CLOSE IP, PLLC

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